

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(114) LPA-1003-2024 (O&M)
Decided on : 25.04.2024

Smt.JogindroAppellant(s)
Versus
Oriental Bank of Commerce & anotherRespondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr.Manoj Sharma, Advocate for the appellant (s).

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-2423-LPA-2024

1. Application for condoning the delay of 12 days in filing the appeal is allowed in view of the averments made in the application duly supported by affidavit of the appellant. Delay of 12 days in filing the appeal is hereby condoned.

2. CM stands disposed of.

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3. Consideration in the present appeal is to the judgment dated 01.02.2024 passed in CWP-8306-2018 whereby the Learned Single Judge chose not to grant the benefit of compassionate appointment. However, the benefit granted was of the amount of Rs.6 lakhs along with interest @ 6% per annum from 01.04.2016 keeping in view the fact that there was a policy in place.

4. The argument raised by counsel for the appellant is that the benefit of employment should have been granted instead of the amount granted along with interest.

5. We have gone through the paperbook. Apparently, the husband of the appellant expired on 25.12.2014 who was working as Head Peon with the respondent-Bank. The request was made on 20.04.2015 for compassionate appointment which was belatedly considered and rejected on 18.03.2016 on the ground that the eligibility was only for Rs.6 lakhs ex gratia amount and the request could not be conceded as per the provisions of the scheme. The documentation pertaining to the amount the legal heirs have been released was asked for and the same was subject matter of challenge before the Learned Single Judge wherein the relief sought was for compassionate appointment being a dependent of the deceased.

4. In the written statement, the plea taken was that the deceased was appointed on 08.10.1996 who expired on 25.12.2014 and did not complete 20 years of service. The son of the appellant, Shiv Kumar being married was not dependent upon the said deceased and therefore, did not fall within the purview of the scheme for compassionate appointment being a married son and not part of the family as per the bi-partite settlement.

5. We have also perused Annexure P-7 which was filed along with the writ petition and in which there is a reference to the dependent of family member and Clause 2.2 provided for a wholly dependent son. Thus, it is apparent that the son of the deceased was married and in such circumstances, only the case of ex gratia was considered which has been accepted by the Learned Single Judge and also the interest was directed to be paid on account of the delay. It has also been mentioned that the Chief Manager of the Bank never recommended the case of the appellant for compassionate appointment.

6. Counsel has vehemently submitted that his earlier counsel has wrongly given his consent that he would be satisfied if the said amount is paid along with interest. It is submitted that no instructions were given regarding giving up of the claim of compassionate appointment.

7. Be that at it may, we are of the considered opinion that appointment on compassionate basis is an exception to the general rules and therefore, it has to be guided by the policy. Here death had taken place way-back in the year 2014. It is not disputed that the son was born in 1992 and it has been averred that he is married. In such circumstances, we are of the considered opinion that the view taken by the Learned Single Judge does not suffer from any infirmity. The purpose of compassionate appointment is only to ensure that immediate succor is provided to the family to tide over the crisis. Reference can be made to the judgments passed by the Apex Court in **V.S.Murthi Vs. State of Andhra Pradesh, 2008 (4) RSJ 343** and **State of Himachal Pradesh Vs. Parkash Chand (2019) 4 SCC 285**. In Parkash Chand (supra), it has been held as under:

“11. In the exercise of judicial review under Article 226 of the Constitution, it was not open to the High Court to re-write the terms of the policy. It is well-settled that compassionate appointment is not a matter of right, but must be governed by the terms on which the State lays down the policy of offering employment assistance to a member of the family of a deceased government employee. [Umesh Kumar Nagpal v. State of Haryana, 1994(3) S.C.T. 174 : (1994) 4 SCC 138, General Manager (D&PB) v. Kunti Tiwary, (2004) 7 SCC 271, Punjab National Bank v. Ashwani Kumar Teneja, 2004(3) S.C.T. 835 : (2004) 7 SCC 265, State Bank of India v. Somvir Singh, 2007(2) S.C.T. 243 : (2007) 4 SCC 778, Mumtaz Yunus Mulani v. State of Maharashtra, 2008(2) S.C.T. 669 : (2008) 11 SCC 384, Union of India v. Shashank Goswami, (2012) 11 SCC 307, State Bank of India v. Surya Narain Tripathi, 2014(2) S.C.T. 161 : (2014) 15 SCC 739 and Canara Bank v. M. Mahesh Kumar, 2015(3) S.C.T. 186 : (2015) 7 SCC 412]”

8. Considerable period of almost a decade has gone by since the death took place and the length of service was also duly considered. Once the respondent-Bank has taken a conscious decision not to grant compassionate appointment, it is not for this Court to substitute the same, keeping in view the settled law.

9. Resultantly, in view of the above discussion, finding no merit in the present appeal, the same is hereby dismissed. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

25.04.2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No